



General Assembly

January Session, 2001

Raised Bill No. 6968

LCO No. 4501

Referred to Committee on Judiciary

Introduced by:
(JUD)

***AN ACT CONCERNING JURISDICTION OF JUVENILE COURT IN
ADOPTION PROCEEDINGS FOLLOWING TERMINATION OF
PARENTAL RIGHTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (1) of subsection (a) of section 45a-724 of the
2 general statutes is repealed and the following is substituted in lieu
3 thereof:

4 (a) (1) A statutory parent appointed under the provisions of section
5 17a-112, section 45a-717 or section 45a-718 may, by written agreement,
6 subject to the approval of the Court of Probate as provided in section
7 45a-727, or subject to the approval of the Superior Court for juvenile
8 matters pursuant to any petition for termination of parental rights files
9 under section 17a-112, or transferred to the Superior Court for juvenile
10 matters under section 45a-715, give in adoption to any adult person
11 any minor child of whom he or she is the statutory parent; provided, if
12 the child has attained the age of twelve, the child shall consent to the
13 agreement.

14 Sec. 2. Section 45a-727 of the general statutes is repealed and the
15 following is substituted in lieu thereof:

16 (a) (1) Each adoption matter shall be instituted by filing an
17 application in a Court of Probate, or with the Superior Court for
18 juvenile matters where termination of parental rights to the child
19 occurred pursuant to section 17a-112 or 45a-715, together with the
20 written agreement of adoption, in duplicate. One of the duplicates
21 shall be sent immediately to the Commissioner of Children and
22 Families.

23 (2) The application shall incorporate a declaration that to the best of
24 the knowledge and belief of the declarant there is no other proceeding
25 pending or contemplated in any other court affecting the custody of
26 the child to be adopted, or if there is such a proceeding, a statement in
27 detail of the nature of the proceeding and affirming that the proposed
28 adoption would not conflict with or interfere with the other
29 proceeding. The court shall not proceed on any application which does
30 not contain such a declaration. The application shall be signed by one
31 or more of the parties to the agreement, who may waive notice of any
32 hearing on it. For the purposes of this declaration, visitation rights
33 granted by any court shall not be considered as affecting the custody of
34 the child.

35 (3) An application for the adoption of a minor child not related to
36 the adopting parents shall not be accepted by the Court of Probate or
37 by the Superior Court for juvenile matters where termination of
38 parental rights to the child occurred pursuant to section 17a-112 or 45a-
39 715, unless (A) the child sought to be adopted has been placed for
40 adoption by the Commissioner of Children and Families or a
41 child-placing agency, and the placement for adoption has been
42 approved by the commissioner or a child-placing agency; (B) the
43 placement requirements of this section have been waived by the
44 Adoption Review Board as provided in section 45a-764; (C) the
45 application is for adoption of a minor child by a stepparent as
46 provided in section 45a-733; or (D) the application is for adoption of a
47 child by another person who shares parental responsibility for the
48 child with the parent as provided in subdivision (3) of subsection (a) of

49 section 45a-724. The commissioner or a child-placing agency may place
50 a child in adoption who has been identified or located by a prospective
51 parent, provided any such placement shall be made in accordance with
52 regulations promulgated by the commissioner pursuant to section
53 45a-728. If any such placement is not made in accordance with such
54 regulations, the adoption application shall not be approved by the
55 Court of Probate or by the Superior Court for juvenile matters where
56 termination of parental rights to the child occurred pursuant to section
57 17a-112 or 45a-715.

58 (4) The application and the agreement of adoption shall be filed in
59 the Court of Probate for the district where the adopting parent resides
60 or in the district where the main office or any local office of the
61 statutory parent is located or shall be filed in the Superior Court for
62 juvenile matters where termination of parental rights to the child
63 occurred pursuant to section 17a-112 or 45a-715.

64 (5) The provisions of section 17a-152, regarding placement of a child
65 from another state, and section 17a-175, regarding the interstate
66 compact on the placement of children, shall apply to adoption
67 placements.

68 (b) (1) The Court of Probate or the Superior Court for juvenile
69 matters where termination of parental rights to the child occurred
70 pursuant to section 17a-112 or 45a-715, shall request the commissioner
71 or a child-placing agency to make an investigation and written report
72 to it, in duplicate, within sixty days from the receipt of such request. A
73 duplicate of the report shall be sent immediately to the Commissioner
74 of Children and Families.

75 (2) The report shall be filed with the Court of Probate or shall be
76 filed with the Superior Court for juvenile matters where termination of
77 parental rights to the child occurred pursuant to section 17a-112 or 45a-
78 715, within the sixty-day period. The report shall indicate the physical
79 and mental status of the child and shall also contain such facts as may
80 be relevant to determine whether the proposed adoption will be in the

81 best interests of the child, including the physical, mental, genetic and
82 educational history of the child and the physical, mental, social and
83 financial condition of the parties to the agreement and the biological
84 parents of the child, if known, and whether the best interests of the
85 child would be served in accordance with the criteria set forth in
86 section 45a-727a. The report shall include a history of physical, sexual
87 or emotional abuse suffered by the child, if any. The report may set
88 forth conclusions as to whether or not the proposed adoption will be in
89 the best interests of the child.

90 (3) The physical, mental and genetic history of the child shall
91 include information about: (A) The child's health status at the time of
92 placement; (B) the child's birth, neonatal, and other medical,
93 psychological, psychiatric, and dental history information; (C) a record
94 of immunizations for the child; and (D) the available results of
95 medical, psychological, psychiatric and dental examinations of the
96 child. The report shall include information, to the extent known, about
97 past and existing relationships between the child and the child's
98 siblings, biological parents, extended family, and other persons who
99 have had physical possession of or legal access to the child. The
100 educational history of the child shall include, to the extent known,
101 information about the enrollment and performance of the child in
102 educational institutions, results of educational testing and
103 standardized tests for the child, and special educational needs, if any,
104 of the child.

105 (4) The adoptive parents are entitled to receive copies of the records
106 and other information relating to the history of the child maintained by
107 the commissioner or child-placing agency. The adoptive parents are
108 entitled to receive copies of the records, provided if required by law,
109 the copies have been edited to protect the identity of the biological
110 parents and any other person whose identity is confidential and other
111 identifying information relating to the history of the child. It is the
112 duty of the person placing the child for adoption to edit, to the extent
113 required by law, the records and information to protect the identity of

114 the biological parents and any other person whose identity is
115 confidential.

116 (5) The report shall be admissible in evidence subject to the right of
117 any interested party to require that the person making it appear as a
118 witness, if available, and such person shall be subject to examination.

119 (6) For any report under this section the Court of Probate or the
120 Superior Court for juvenile matters where termination of parental
121 rights to the child occurred pursuant to section 17a-112 or 45a-715,
122 may assess against the adopting parent or parents a reasonable fee
123 covering the cost and expenses of making the investigation. The fee
124 shall be paid to the state or to the child-placing agency making the
125 investigation and report, provided the report shall be made within the
126 sixty-day period or other time set by the court.

127 (c) (1) Upon the expiration of the sixty-day period or upon the
128 receipt of such report, whichever is first, the Court of Probate or the
129 Superior Court for juvenile matters where termination of parental
130 rights to the child occurred pursuant to section 17a-112 or 45a-715,
131 shall set a day for a hearing upon the agreement and shall give
132 reasonable notice of the hearing to the parties to the agreement, the
133 child-placing agency if such agency is involved in the adoption, the
134 Commissioner of Children and Families and the child, if over twelve
135 years of age.

136 (2) At the hearing the [court] Probate Court or the Superior Court,
137 where appropriate, may deny the application, enter a final decree
138 approving the adoption if it is satisfied that the adoption is in the best
139 interests of the child or order a further investigation and written report
140 to be filed, in duplicate, within whatever period of time it directs. A
141 duplicate of such report shall be sent to the commissioner. The court
142 may adjourn the hearing to a day after that fixed for filing the report. If
143 such report has not been filed with the court within the specified time,
144 the court may thereupon deny the application or enter a final decree in
145 the manner provided in this section.

146 (3) The Court of Probate or the Superior Court for juvenile matters
147 where termination of parental rights to the child occurred pursuant to
148 section 17a-112 or 45a-715, shall not disapprove any adoption under
149 this section solely because of an adopting parent's marital status or
150 because of a difference in race, color or religion between a prospective
151 adopting parent and the child to be adopted or because the adoption
152 may be subsidized in accordance with the provisions of section
153 17a-117.

154 (4) The Court of Probate or the Superior Court for juvenile matters
155 where termination of parental rights to the child occurred pursuant to
156 section 17a-112 or 45a-715, shall ascertain as far as possible the date
157 and the place of birth of the child and shall incorporate such facts in
158 the final decree, a copy of which shall be sent to the Commissioner of
159 Children and Families.

160 Sec. 3. Section 45a-736 of the general statutes is repealed and the
161 following is substituted in lieu thereof:

162 Any court of probate or the Superior Court for juvenile matters
163 where termination of parental rights to the child occurred pursuant to
164 section 17a-112 or 45a-715, as part of its approval of any agreement of
165 adoption or declaration of an intention to adopt, may change the name
166 of the person adopted, as requested by the adopting parent or parents.

167 Sec. 4. Section 45a-745 of the general statutes is repealed and the
168 following is substituted in lieu thereof:

169 (a) For each final decree of adoption decreed by a court of probate
170 or by the Superior Court for juvenile matters, the clerk of the court
171 shall prepare a record on a form prescribed by the Department of
172 Public Health. The record shall include all facts necessary to locate and
173 identify the original birth certificate of the adopted person and to
174 establish the new birth certificate of the adopted person, and shall
175 include official notice from the court of the adoption, including
176 identification of the court action and proceedings.

177 (b) Each petitioner for adoption, the attorney for the petitioner and
178 each social or welfare agency or other person concerned with the
179 adoption shall supply the clerk with information which is necessary to
180 complete the adoption record. The supplying of the information shall
181 be a prerequisite to the issuance of a final adoption decree by the court.

182 (c) Not later than the fifteenth day of each calendar month, the clerk
183 of the Court of Probate or of the Superior Court for juvenile matters
184 shall forward to the Department of Public Health the record provided
185 for in subsection (a) of this section for all final adoption decrees issued
186 during the preceding month.

187 (d) When the Department of Public Health receives a record of
188 adoption for a person born outside the state, the record shall be
189 forwarded to the proper registration authority of the place of birth.

190 (e) The Department of Public Health, upon receipt of a record of
191 adoption for a person born in this state, shall establish a new certificate
192 of birth in the manner prescribed in section 7-53, except that no new
193 certificate of birth shall be established if the court decreeing the
194 adoption, the adoptive parents or the adopted person, if over fourteen
195 years of age, so requests.

196 Sec. 5. Section 45a-748 of the general statutes is repealed and the
197 following is substituted in lieu thereof:

198 Each child-placing agency or the department shall be required to
199 make a reasonable effort to obtain the information provided for in
200 section 45a-746 for each child being placed for adoption or for whom
201 there is a probability of adoption, but the lack of such information shall
202 not be a bar to the granting of a decree of adoption, provided the child-
203 placing agency or department has made a reasonable effort to obtain
204 the information. If the judge of probate or the judge of the appropriate
205 Superior Court for juvenile matters decides that a reasonable effort has
206 not been made to obtain the information or that the information is
207 being unreasonably withheld, the judge may order the child-placing

208 agency or department to make a reasonable effort to obtain the
209 information or to release the information. Any child-placing agency or
210 department aggrieved by the order may appeal to the Superior Court if
211 it is an appeal from a probate court decision, or to the Appellate Court
212 if it is an appeal from a decision of the Superior Court for juvenile
213 matters.

214 Sec. 6. Section 45a-752 of the general statutes is repealed and the
215 following is substituted in lieu thereof:

216 (a) Any person requesting information under section 45a-746 who is
217 of the opinion that any item of information is being withheld by the
218 child-placing agency or department, or any person requesting
219 information under section 45a-751 who has been refused release of the
220 information, may petition the Court of Probate or the Superior Court
221 for juvenile matters for a hearing on the matter. No petition shall be
222 filed if the consents required by section 45a-751b have been denied.
223 Such petition may be filed in the court of probate in the probate district
224 where the adoption was finalized or where the child-placing agency or
225 department has an office or, in the case of a petition by a person who
226 resides in this state, may be filed in the court of probate for the district
227 in which such person resides or in the Superior Court for juvenile
228 matters where termination of parental rights to the child occurred
229 pursuant to section 17a-112 or 45a-715 and there is a pending
230 application to such Superior Court for adoption of the child.

231 (b) When a petition, filed under the provisions of subsection (a) of
232 this section, is received by the court and if such court is satisfied as to
233 the identity of the petitioner, the court shall first refer the matter
234 within thirty days of receipt of the petition to an advisory panel
235 consisting of four members appointed from a list of panel members
236 provided by the Probate Court Administrator. This list shall include
237 adult adopted persons, biological parents, adoptive parents and social
238 workers experienced in adoption matters. In convening this panel, the
239 court shall make a reasonable effort to include one member from each

240 category of qualified persons. Such panel members shall serve without
241 compensation. Within thirty days of referral of the matter the panel
242 shall begin interviewing witnesses, including the petitioner if the
243 petitioner wants to be heard, and reviewing such other evidence it may
244 deem relevant, and within forty-five days following its initial meeting,
245 shall render a report including recommendations to [the judge of
246 probate] either the Probate Court or the Superior Court for juvenile
247 matters having jurisdiction. The court shall set a day for a hearing on
248 the petition which hearing shall be held not more than thirty days after
249 receiving the panel's report and shall give notice of the hearing to the
250 petitioner and the child-placing agency. The court shall render a
251 decision within forty-five days after the last hearing on the merits as to
252 whether the requested information should be released under the
253 relevant statutes. If the applicant requests the assistance of the child-
254 placing agency or department in locating a person to be identified, the
255 provisions of section 45a-753 shall apply.

256 Sec. 7. Section 45a-753 of the general statutes is repealed and the
257 following is substituted in lieu thereof:

258 (a) If a request is received pursuant to section 45a-751, the child-
259 placing agency or department which has agreed to attempt to locate
260 the person or persons whose identity is being requested or the child-
261 placing agency or department which furnished a report ordered by the
262 court following a petition made under subsection (f) of this section
263 shall not be required to expend more than ten hours time within sixty
264 days of receipt of the request unless the child-placing agency or
265 department notifies the authorized applicant of a delay and states the
266 reason for the delay. The child-placing agency or department may
267 charge the applicant reasonable compensation and be reimbursed for
268 expenses in locating any person whose identity is being requested. The
269 obtaining of such consent shall be accomplished in a manner which
270 will protect the confidentiality of the communication and shall be done
271 without disclosing the identity of the applicant. For the purposes of
272 this section any records at the Court of Probate or the Superior Court

273 shall be available to an authorized representative of the child-placing
274 agency or department to which the request has been made.

275 (b) If the child-placing agency or department is out-of-state and
276 unwilling to expend time for such purpose, the court of probate which
277 finalized the adoption or terminated parental rights or the superior
278 court which terminated parental rights or which finalized the adoption
279 shall upon petition appoint a licensed or approved child-placing
280 agency or the department to complete the requirements of this section.

281 (c) If the relative whose identity is requested cannot be located or
282 appears to be incompetent but has not been legally so declared, the
283 Court of Probate or the Superior Court shall appoint a guardian ad
284 litem under the provisions of section 45a-132, at the expense of the
285 person making the request. The guardian ad litem shall decide
286 whether to give consent on behalf of the relative whose identity is
287 being requested.

288 (d) If the relative whose identity has been requested has been
289 declared legally incapable or incompetent by a court of competent
290 jurisdiction, then the legal representative of such person may consent
291 to the release of such information.

292 (e) Such guardian ad litem or legal representative shall give such
293 consent unless after investigation [he] such guardian or legal
294 representative concludes that it would not be in the best interest of the
295 adult person to be identified for such consent to be given. If release of
296 the information requires the consent of such guardian ad litem or legal
297 representative, or if the person whose identity is sought is deceased,
298 only the following information may be released: (1) All names by
299 which the person whose identity is being sought has been known, and
300 all known addresses; (2) the date and place of such person's birth; (3)
301 all places where such person was employed; (4) such person's Social
302 Security number; (5) the names of educational institutions such person
303 attended; and (6) any other information that may assist in the search of
304 a person who cannot be located.

305 (f) (1) If (A) the person whose identity is being sought cannot be
306 located or is incompetent or (B) the child-placing agency or
307 department has not located the person within sixty days, the
308 authorized applicant may petition for access to the information to the
309 court of probate or the superior court which terminated the parental
310 rights or to the court of probate which approved the adoption or the
311 Superior Court for juvenile matters.

312 (2) Within fifteen days of receipt of the petition, the court shall order
313 the child-placing agency or department which has access to such
314 information to present a report. The report by the child-placing agency
315 or department shall be completed within sixty days after receipt of the
316 order from the court.

317 (3) If the child-placing agency or department is out-of-state and
318 unwilling to provide the report, the court shall refer the matter to a
319 child-placing agency in this state or to the department for a report.

320 (4) The report shall determine through an interview with the adult
321 adopted or adult adoptable person and through such other means as
322 may be necessary whether (A) release of the information would be
323 seriously disruptive to or endanger the physical or emotional health of
324 the authorized applicant, and (B) release of the information would be
325 seriously disruptive to or endanger the physical or emotional health of
326 the person whose identity is being requested.

327 (5) Upon receipt of the report, or upon expiration of sixty days,
328 whichever is sooner, the court shall set a time and place for hearing not
329 later than fifteen days after receipt of the report or expiration of such
330 sixty days, whichever is sooner. The court shall immediately give
331 notice of the hearing to the authorized applicant and to the child-
332 placing agency or the department.

333 (6) At the hearing, the authorized applicant may give such evidence
334 to support the petition as the authorized applicant deems appropriate.

335 (7) Within fifteen days after the conclusion of the hearing, the court
336 shall issue a decree as to whether the information requested shall be
337 given to the authorized applicant.

338 (8) The requested information shall be provided to the authorized
339 applicant unless the court determines that: (A) Consent has not been
340 granted by a guardian ad litem appointed by the court to represent the
341 person whose identity has been requested; (B) release of the
342 information would be seriously disruptive to or endanger the physical
343 or emotional health of the authorized applicant; or (C) release of the
344 information would be seriously disruptive to or endanger the physical
345 or emotional health of the person whose identity is being requested.

346 (9) If the court denies the petition and determines that it would be in
347 the best interests of the person whose identity is being requested to be
348 notified that the authorized applicant has petitioned the court for
349 identifying information, the court shall request the child-placing
350 agency or department to so notify the person whose identity is being
351 requested. The notification shall be accomplished in a manner which
352 will protect the confidentiality of the communication and shall be done
353 without disclosing the identity of the authorized applicant. If the
354 person whose identity is being requested is so notified, the authorized
355 applicant who petitioned the court shall be informed that this
356 notification was given.

Statement of Purpose:

To authorize concurrent jurisdiction by the Superior Court for juvenile matters with the Probate Court for adoption proceedings where the Superior Court ordered termination of parental rights.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]